

## **CHAPTER 69.5-01-11 SIMULCASTING**

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### **69.5-01-11-01. Definitions.**

1. "Combined parimutuel pool" means the parimutuel wagers received at simulcast sites being contributed into one or more parimutuel pools as required by the commission.
2. "Commission" means the North Dakota racing commission.
3. "Decoder" means a device or means to convert encrypted audiovisual signals or data, or both, into a form recognizable as the original content of the signals.
4. "Downlink" means a receiving antenna coupled with an audiovisual signal receiver compatible with and capable of receiving simultaneous audiovisual signals or data emanating from a sending track, and includes the electronic transfer of received signals from the receiving antenna to television monitors within the satellite facility.
5. "Eligible organization" means an organization eligible to conduct offtrack wagering pursuant to North Dakota Century Code section 53-06.2-06.
6. "Encryption" means the scrambling or other manipulation of the audiovisual signals to mask the original content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal.
7. "Interstate simulcast wagering" means wagering conducted by a betting system outside the state of North Dakota on the results of one or more races being run at a North Dakota track or wagering conducted by a betting system within the state of North Dakota on the results of one or more races being run at a site outside the state of North Dakota.
8. "Intrastate simulcast wagering" means parimutuel wagering at a North Dakota simulcast site on horse races run at a North Dakota track.

9. "Person" means any person, firm, corporation, association, or organization.
10. "Sending track" means any track from which simulcast signals originate.
11. "Simulcast employee or agent" means any person employed by a simulcast service provider or simulcast operator, but does not include custodial or maintenance personnel not directly involved in wagering and others exempted by the commission.
12. "Simulcast operator" means an eligible organization licensed by the commission to offer, sell, cash, redeem, or exchange parimutuel tickets on races being simulcast from a sending track.
13. "Simulcast service provider" means a person engaged in providing simulcasting services to a simulcast operator and establishing, operating, and maintaining the combined parimutuel pool, but does not include persons authorized by the federal communications commission to provide telephone service or space segment time on satellite transponders.
14. "Simulcast services" means services provided to a simulcast operator including the simulcast signal from a sending track and the operation of the combined North Dakota parimutuel pool.
15. "Simulcast site" means the physical premises, structure, and equipment utilized by a simulcast operator for the conduct of parimutuel wagering on horse racing events being run elsewhere.
16. "Uplink" means an earth station broadcasting facility, whether mobile or fixed, which is used to transmit audiovisual signals or data, or both, on federal communications commission-controlled frequencies, and includes any electronic transfer of the audiovisual signals from within the racing enclosure to the location of the transmitter at the uplink.

**History:** Effective March 1, 1990.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-10.1

#### **69.5-01-11-02. General licensing requirements.**

1. Any simulcast operator, simulcast service provider, or simulcast employee desiring to display the simulcast of parimutuel events on which parimutuel wagering shall be permitted in the manner and subject to the conditions provided for under law and by the commission must be licensed by the commission. Applications for licenses must be in such form as may be prescribed by the commission and must contain such information or other material or evidence as the commission may

require. All licenses must be for a period of one year commencing January first and ending December thirty-first of each calendar year.

2. The application for renewal of license must be made to the commission no later than thirty days prior to the date of expiration of the license on such form as may be prescribed by the commission. Application for license renewal must include the license fee as prescribed by this chapter.
3. Approval or disapproval of an application for simulcast operator or service provider license must include consideration by the commission of the following:
  - a. The operator or provider's general benefit to the state of North Dakota.
  - b. The operator or provider's general benefit to the state's horse racing industry.
  - c. The operator or provider's integrity.
    - (1) Individual and corporate conduct and reputation.
    - (2) Criminal history.
    - (3) Betting and gaming industry conduct and reputation.
  - d. The operator or provider's credibility.
    - (1) Accuracy of feasibility study.
    - (2) Experience and expertise of the operator or provider in the simulcast industry.
  - e. Financial stability.

**History:** Effective March 1, 1990.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-10.1

#### **69.5-01-11-03. Licensing the service provider.**

1. A service provider must be licensed by the commission.
2. Before the commission may grant such license, it shall review and approve the services to be provided by the applicant. The applicant shall submit such information as required by the commission which must include, but not be limited to:

- a. The services and equipment to be provided.
  - b. The sources and amounts of revenue expected from said operation.
  - c. A complete financial statement demonstrating adequate capitalization to maintain the intended services.
  - d. A description of the management or management groups responsible for the operation of the services company.
  - e. A complete description of the transmission, totalizator, and data processing equipment to be used.
  - f. A history of the company demonstrating the experience and technical knowledge necessary to supply the intended services.
  - g. Written agreements between the applicant and all parties assisting in providing simulcast services.
  - h. A description of the security measures to be used to protect the propriety of the signal and the integrity of the wagering process.
  - i. The system of accounts to be utilized in the collection and distribution of revenues directly or indirectly related to the simulcast operation and the combined parimutuel pool.
  - j. A detailed statement demonstrating individual and corporate conduct, ability, and reputation of the applicant and supervisory personnel.
3. The license fee must be five thousand dollars annually.
  4. The licensee shall post with the commission such surety as is required by the commission for the services the applicant will provide.

**History:** Effective March 1, 1990.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-10.1

**69.5-01-11-04. Duties of the service provider.**

1. The service provider shall comply with all state and federal laws, including section 3001, et seq. of title 15 of the United States Code.
2. The service provider intending to make any change not reflected in the original license application submitted to the commission, a supervisory personnel change, or change of sending track must be granted prior approval by the commission and must file with the commission a statement including, but not limited to:

- a. The changes to be made.
  - b. A statement that the service provider is in compliance with section 3001, et seq. of title 15 of the United States Code and any other applicable federal laws.
  - c. The date and time the service provider intends to commence said changes.
3. A service provider may not be licensed as a simulcast operator.
4. The service provider shall provide:
  - a. Parimutuel terminals, parimutuel odds display, modems or switching units enabling parimutuel data transmissions, and data communication between the service provider and the simulcast operator.
  - b. A voice communication system between the state steward and the sending track stewards.
  - c. A telecommunication system available to the state steward for discharge of the steward's duties.
5. The service provider shall, for a period of ninety days, retain the video record of all simulcasts in decoded form, and shall provide a copy of such record on a one-half inch [12.7 millimeters] video home system video cassette to the commission at its request.
6. Not less than thirty minutes prior to the commencement of transmission of the racing program of each day or night, the service provider shall initiate a test program of its transmitter, encryption and decoding, and data communication system to assure proper operation.
7. The service provider shall maintain such security controls over its simulcast and communications system as directed by the commission.
8. The service provider shall provide the commission with a certified report of its operations as directed by the commission.
9. A licensed service provider may only provide simulcast services to a simulcast operator licensed by the commission.
10. The service provider shall provide access to the simulcast system to all simulcast operators licensed by the commission on an equal, nondiscriminatory basis. The service provider may require compliance by the simulcast operator with contractual provisions necessary to

maintain the integrity of the simulcast and parimutuel systems and to ensure proper operation of offtrack wagering.

11. The service provider shall provide access by the commission or its designated representative to the provider facility and to all records of the provider and any other information as required by the commission or its representative.
12. Simulcasting may be permitted only on races conducted at approved locations at parimutuel tracks governed by a racing commission, racing board, or governmental agency.
13. A service provider shall establish and maintain a combined parimutuel pool, ensure its integrity, and establish procedure as approved by the commission for the use of federally insured financial institutions for receipt and disbursement of funds which are part of the combined parimutuel pool.
14. The service provider shall provide a signal from the sending track that will contain in its video content a digital display of the actual time of day, the name of the racetrack from where it emanates, the number of the race being displayed, and the sequential fractional time of the race as the race is being run.
15. The commission may appoint a simulcast steward or stewards as reasonably necessary for the protection of the public interest. The simulcast stewards must be appointed and assigned by the commission, but they must be paid for their services by the service provider.

**History:** Effective March 1, 1990.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-10.1

**69.5-01-11-05. Licensing the simulcast operator.**

1. Before the commission may grant a license to a simulcast operator, it shall review and approve a plan of operation submitted by an applicant including, but not limited to, the following information:
  - a. A feasibility study denoting the revenue earnings expected from the simulcast facility and the costs expected to operate such facility. The feasibility study must include:
    - (1) The number of races to be simulcast.
    - (2) The types of wagering to be offered.

- (3) The level of attendance expected and the area from which such attendance will be drawn.
  - (4) The level of anticipated wagering activity.
  - (5) The source and amount of revenue expected from other than parimutuel wagering.
  - (6) The cost of operating the simulcast facility and the identification of costs to be amortized and the method of amortization of such costs.
- b. The security measures to be employed to protect the facility, to control crowds, to safeguard the transmission of the simulcast signal and to control the transmission of wagering data to effectuate common wagering pools.
- c. The description of the management groups responsible for the operation of the simulcast facility.
- d. The system of accounts to maintain a separate record of revenues collected by the simulcast facility, the distribution of such revenues, and the accounting of costs relative to the simulcast operation.
- e. The location of each simulcast site, a copy of the lease or site agreement, and a written confirmation from appropriate local officials that the location of such facility and the number of patrons expected to occupy such facility are in compliance with all applicable local ordinances and codes.
- f. All written agreements or letters of consent between parties to the operation of the simulcast system, including a licensed service provider.
- g. Proof of eligibility under North Dakota Century Code section 53-06.2-06.
- h. Applicant's financial information demonstrating adequate capitalization to carry on the duties of a simulcast operator.
- i. Support or nonsupport of the local jurisdictional government.
- j. Proof of adequate experience and knowledge necessary to conduct simulcasting and parimutuel wagering operations.
- 2. The annual license fee must be one thousand dollars. For each additional site over one, the simulcast operator shall pay a site fee of five hundred dollars.

3. No license as simulcast operator may be granted to:
  - a. Organizations ineligible under North Dakota Century Code section 53-06.2-06.
  - b. A service provider.
4. The simulcast operator shall post with the commission a surety in an amount and in such form as the commission requires, to ensure payment of distributable amounts of the parimutuel pool, operational costs, salaries, wages, benefits, taxes, North Dakota purse and breeders funds, and related financial obligations.
5. No simulcasting or parimutuel wagering may be conducted at a simulcast site not approved by the commission.

**History:** Effective March 1, 1990.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-10.1

**69.5-01-11-06. Duties of the simulcast operator.**

1. A simulcast operator shall conduct the parimutuel wagering at a simulcast site approved by the commission.
2. The simulcast operator shall provide access to the commission or its designated representative to the simulcast site and to all records of the operator and any other information as required by the commission or its designated representative.
3. If a licensee or an applicant for a live horse race meet license requests a shutdown of a simulcast site, the commission may require such simulcast site to shut down during the hours that the live race meet is run.
4. The simulcast operator is responsible for cash shortages which occur at a simulcast site.
5. The provisions of North Dakota Century Code section 53-06.2-11 are applicable to simulcasting and offtrack parimutuel wagering. The simulcast operator is responsible for the payment of the state takeout, the North Dakota breeders fund, and the North Dakota purse fund provided by the commission.
6. A simulcast operator may only take a signal from a service provider licensed by the commission.
7. All wagers are made on the official results of the sending track.



8. No simulcast operator may employ an independent contractor for the conduct of simulcasting or parimutuel wagering. Only an employee of a simulcast operator working for or without compensation may conduct simulcasting or parimutuel wagering, or both.

**History:** Effective March 1, 1990.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-10.1

**69.5-01-11-07. Licensing of simulcast employees.**

1. No person may be a simulcast employee unless that person is the holder of a valid license issued by the North Dakota racing commission.
2. The employment of an unlicensed person by a simulcast operator or service provider is prohibited. Upon discharge of a licensed simulcast employee, the operator or service provider shall report that fact to the commission, including the name and occupation of the discharged licensee and the reason for discharge.
3. The commission will not issue a license to a simulcast employee unless the application includes the prior endorsement of the employer.
4. The initial license fee is twenty-five dollars. The annual renewal fee is ten dollars. For each change of employment, name change, or replacement of a lost or destroyed license, a five dollar fee will be assessed.
5. If the applicant for a simulcast employee license will be working at a gaming site licensed by the attorney general, and provides proof that the applicant is holding a valid gaming work permit, that applicant will be charged a ten dollar initial license fee. Renewal and replacement fees must be the same as subsection 4.
6. Each simulcast employee shall wear a valid license at all times while working in the simulcast site or service provider's site. The license must be worn on the upper one-third of the employee's body. All information on the license or permit must be easily visible. No license may be transferred to any other person.
7. No employee or agent of a service provider may be employed by a simulcast operator. No employee of a simulcast operator may be employed by a service provider.
8. No simulcast employee may wager at a simulcast site while on duty. For purposes of this section, a simulcast employee taking a temporary break is still considered on duty. Furthermore, no simulcast employee

may wager at a simulcast site until four hours have elapsed since the simulcast employee went off duty.

**History:** Effective March 1, 1990.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-10.1

**69.5-01-11-08. North Dakota tracks offering extended wagering.**

1. A North Dakota track may authorize use of its simulcast for interstate wagering by out-of-state betting systems provided the North Dakota track files with the commission a copy of the agreement with the out-of-state betting system which sets forth the payment to the North Dakota track for use of its simulcast, and of any agreements required by chapter 57, including section 3001, et seq. of title 15 of the United States Code.
2. Every North Dakota sending track simulcasting its racing program shall contract with a simulcast service provider for the purpose of providing authorized users with its simulcast.
3. The North Dakota sending track is responsible for the content of its simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of its racing program, a periodic display of wagering information, and continuity programming between horse racing events.
4. Unless otherwise permitted by the commission, the sending track simulcast will contain in its video content a digital display of the actual time of day, the name of the racetrack from where it emanates, the number of the race being displayed, and the sequential fractional time of the race as the race is being run.

**History:** Effective March 1, 1990.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-10.1

**69.5-01-11-09. Denial, suspension, and revocation of simulcast licenses.**

1. Reasons for denial, suspension, and revocation. The commission may deny, suspend, or revoke licenses for just cause. Actions constituting just cause include:
  - a. Any action or attempted action by a person contrary to any law.
  - b. Corrupt practices, which include:

- (1) Prearranging or attempting to prearrange the order of finish of a race.
  - (2) Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.
  - (3) Falsifying or manipulating the odds on any entrant in a race.
- c. Any violation of the rules of racing or simulcasting adopted by the commission.
- d. Willful falsification or misstatement of facts in an application for simulcasting privileges or a license.
- e. Material false statement to a racing or simulcast official or to the commission.
- f. Willful disobedience of a commission order or of a lawful order of an agent of the commission.
- g. Continued failure or inability to meet financial obligations connected with the operation of any part of a simulcast system or simulcast site.
- h. Failure or inability to properly maintain a simulcast system, simulcast site, or combined parimutuel pool.
- i. Failure to fulfill contractual obligations to other facets of the simulcast system.
- j. The suspension or revocation of racing or parimutuel wagering activity of the applicant or licensee by an out-of-state regulatory agency recognized by the commission.
2. The procedures to be followed in denial, suspension, or revocation of simulcast licenses must be as prescribed by North Dakota Century Code section 53-06.2-15.

**History:** Effective March 1, 1990.

**General Authority:** NDCC 53-06.2-05

**Law Implemented:** NDCC 53-06.2-10.1